IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 164 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HARSHADBHAI D PANDYA

Versus

JILLA PANCHAYAT AMRELI

Appearance:

MR MD RANA for Petitioner No. 1

MR JD AJMERA for Respondent No. 1

RULE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 25/02/2002

ORAL JUDGEMENT

Heard Mr. M.D. Rana, learned Advocate appearing for the petitioner.

1. The petitioner, in this petition, has prayed for quashing and setting aside the action of the respondent authorities in continuing the petitioner as a part- timer since the post was permanent which was already indicated in the appointment with respect to the duties indicated in the said appointment order, and has further prayed for giving the benefit of the circular which clearly fixes

the duty to convert the post into full-timer. The petitioner has further prayed for direction to the respondents-authorities to regularize the petitioner on the post since the post was permanent and to give all other benefits attached to the permanent post.

2. By way of interim relief, the petitioner has prayed for interim injunction restraining the respondent no.2 from terminating the service of the petitioner.

3. While admitting the petition on 22-3-1991, this Court has granted interim relief restraining the respondents from terminating the employee of the petitioner as a part timer. The petitioner has relied on the Circular no.PTE-1080-28-CH dated 26th December, 1980 issued by the Under Secretary to the Government of Gujarat, Finance Department, which is annexed at Annexure "C" to the petition wherein it is stated that whenever, part time employment has continued for three years, the Head of the Department should make efforts as per prescribed recruitment Rules and Procedure for filling in the posts, to absorb such incumbents in regular posts that may be available under his control and to replace the incumbent by a fresh part time employee. Relying on this circular, Mr. M.D.Rana, learned Advocate for the petitioner has submitted that the grievance of the petitioner would be redressed if the direction is given by this Court to the respondent to consider the representation which may be made by the petitioner within a period of fifteen days from the the date of receipt of such representation and that the respondents- authorities shall consider the representation in view of the circular referred to hereinabove, the length of service put on by the petitioner and also considering the decision taken by this Court in similar matters.

4. Having regard to the facts and circumstances of the case, and also considering the Government Resolution, I direct the respondents-authorities to consider the representation that may be made by the petitioner sympathetically and take an appropriate decision within six weeks from the date of receipt of the representation from the petitioner in light of the circular referred to hereinabove. The respondents-authorities, if they deem it proper may send the proposal in this regard to the Government. Till such representation is considered and appropriate decision is taken, the interim relief granted by this Court earlier would continue and it shall be open for the petitioner to challenge the decision of the respondents-authorities, if any adverse decision is taken by them on the representation made by the petitioner. I

further direct that, if any adverse decision is taken by the respondents-authorities, the same shall not be implemented for a period of one week from the date of such decision so as to enable the petitioner to approach the appropriate forum for ventilating his grievance.

5. With the aforesaid observations, the petition stands disposed of with no order as to costs.

(K.A.Puj,J.)

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